

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

WENDELL DWAYNE O'NEAL,

Plaintiff,

Civil No. 05-1943 (DWF/AJB)

v.

REPORT AND RECOMMENDATION

UNKNOWN U.S. GOVERNMENT ENTITY,
et al.,

Defendants.

Plaintiff commenced this action on August 25, 2005, by filing a self-styled complaint, and an application seeking leave to proceed in forma pauperis ("IFP"). (Docket Nos. 1 and 2.) The Court previously examined Plaintiff's submissions and determined that his complaint failed to state an actionable claim for relief. The Court therefore entered an order, dated September 7, 2005, which informed Plaintiff that his IFP Application would not be granted "at this time." (Docket No. 8.) The order granted Plaintiff leave to file an Amended Complaint, and expressly advised him that if he did not file a new pleading by September 30, 2005, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for complying with the Court's prior order has now passed, and Plaintiff has not yet filed an Amended Complaint. In fact, Plaintiff has not communicated with the Court at all since the prior order was entered. Therefore, it is now recommended, in accordance with the Court's prior order, that Plaintiff be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Link v.

Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: October 7, 2005

s/ Arthur J. Boylan
ARTHUR J. BOYLAN
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 24, 2005**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.